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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,424	08/25/2003	John McFarland Harris	CE10278R (78910)	2794

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EXAMINER	
SMITH, SHEILA B	

ART UNIT	PAPER NUMBER
2681	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/647,424	HARRIS ET AL.	
	Examiner	Art Unit	
	Sheila B. Smith	2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-21, rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amico et al. (U.S. Patent Publication Number 2004/0001477)

Regarding claim 1, D'Amico et al. discloses essentially all the claimed invention as set fourth in the instant application, further D'Amico et al. discloses a VOIP transmitter and receiver devices and methods therefor. In addition D'Amico et al. discloses a method for regulating a remaining depth of a buffer (120) in a destination mobile unit (616), the method comprising: receiving at least one communication from a source mobile unit (604) in a buffer (which reads on paragraph [0014]), the buffer having an associated depth; playing the communications received at the buffer to a recipient at the destination mobile unit (616); determining the remaining depth of the buffer in the destination mobile unit (616); and sending an indication to the source mobile unit when the remaining depth of the in the destination mobile unit reaches a predetermined threshold (which reads on paragraph [0020]). However D'Amico et al. fails to specifically disclose a play-out buffer.

Especially in view of the fact that D'Amico et al. does provide for a buffer before and after air interface transmission as disclosed in paragraph 0014. Further, the method used by

D'Amico et al. in controlling and regulating the buffers more than adequately meet the limitation of the play-out buffer.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to modify D'Amico et al. with a means for a play-out buffer for the purpose of controlling the information in the buffer.

Regarding claim 2, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses encoding and transmitting the communications from the source mobile unit to the destination mobile unit at a coding rate; receiving the indication from the destination mobile unit; and adjusting the coding rate of the communications sent from the source mobile unit to the destination mobile unit as a function, at least in part, of the indication received from the destination mobile unit (which reads on paragraph [0026]).

Regarding claim 3, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses adjusting the coding rate of the source mobile unit comprises adjusting the coding rate of a vocoder in the source mobile unit (which reads on paragraph [0019]).

Regarding claim 4, 7, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses sending an indication comprises sending a real-time transport protocol (RTP) header (which reads on paragraph [0023]).

Regarding claim 5,8, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses receiving an indication comprises receiving a negative acknowledgment message for a frame (which reads on paragraph [0026]).

Regarding claim 6,9, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses regulating a coding rate of communications transmitted from a source wireless unit to a destination wireless unit, the method comprising: encoding communications in a vocoder at the source mobile unit at a coding rate and transmitting the communications to the destination unit; receiving an indication from the destination mobile unit; and adjusting the coding rate of the vocoder in the source mobile unit according to the indication received from the destination mobile unit (which reads on paragraph [0026]).

Regarding claim 10, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses a source mobile unit transmitting voice communications; a wireless infrastructure (112) coupled to the source mobile unit (which reads on paragraph [0026]), the infrastructure receiving the voice communications from the source mobile unit and presenting the voice communications at an output; and a destination mobile unit coupled to the wireless infrastructure at an output of the wireless infrastructure (which reads on paragraph [0026]), the destination mobile unit receiving the voice communications from the infrastructure, the destination mobile unit comprising a buffer, the buffer having an associated depth, the destination wireless unit storing the voice communications in the buffer and forming an indication when the depth reaches a predetermined threshold (which reads on paragraph [0020]). However D'Amico et al. fails to specifically disclose a play-out buffer.

Especially in view of the fact that D'Amico does provide for a buffer before and after air interface transmission as disclosed in paragraph 0014. Further, the method used by D'Amico in

controlling and regulating the buffers more than adequately meet the limitation of the play-out buffer.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to modify D'Amico with a means for a play-out buffer for the purpose of controlling the information in the buffer.

Regarding claim 11, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the indication formed in the destination mobile unit is a real-time transport protocol (RTP) header (which reads on paragraph [0023]).

Regarding claim 12, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the wireless infrastructure forms a negative acknowledgment message that is passed to the source mobile unit (which reads on paragraph [0026]).

Regarding claim 13, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses a supplemental communication channel from the destination mobile unit to the wireless infrastructure and wherein the indication is sent over the supplemental communication channel to the infrastructure and from the infrastructure to the source mobile unit (which reads on paragraph [0026]).

Regarding claims 14-16, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses a wireless transceiver having at least one output; a play-out buffer having a play-out depth and storing communications received from a source mobile unit; an indication register containing data representing remaining play-out depth of the play-out buffer; a controller coupled to the play-out buffer and the indication register, the

controller also coupled to the transceiver via an indication message output, the indication message output corresponding to contents of the indication register; such that the wireless transceiver will transmit a communication that comprises the indication message output. However D'Amico et al. fails to specifically disclose a play-out buffer.

Especially in view of the fact that D'Amico does provide for a buffer before and after air interface transmission as disclosed in paragraph 0014. Further, the method used by D'Amico in controlling and regulating the buffers more than adequately meet the limitation of the play-out buffer.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to modify D'Amico with a means for a play-out buffer for the purpose of controlling the information in the buffer.

Regarding claim 17, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the indication of play-out depth is comprised in an RTP header (which reads on paragraph [0023]).

Regarding claim 18, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses a transceiver (604) having an indication message input; a storage register coupled to the transceiver, the storage register (108) storing at least one indication message received by the transceiver at the indication message input; a vocoder (624) having a communication output and a control input and further having an associated adjustable vocoder coding rate that is responsive to the control input; and a controller (620) that is operably coupled to the storage register and coupled to the vocoder by the control input, the controller

forming a signal on the control input based upon contents of the at least one indication message present in the storage register (which reads on paragraphs [0026 and 0027]).

Regarding claim 19, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the indication message is a real-time transport protocol (RTP) header (which reads on paragraph [0023]).

Regarding claim 20, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the indication message received is a negative acknowledgment message (which reads on paragraph [0026]).

Regarding claim 21, D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses the controller comprises means for determining the content of the at least one indication message (which reads on paragraph [0026]).

Response to Arguments

1. Applicant's arguments filed 6/22/05 have been fully considered but they are not persuasive.

Applicants arguments regarding claim 1, and that the art of record does not disclose the receive side that monitors the play out buffer, the examiner disagrees. The examiner would like to restate the above rejection a method for regulating a remaining depth of a buffer (120) in a destination mobile unit (616), the method comprising: receiving at least one communication from a source mobile unit (604) in a buffer (which reads on paragraph [0014]), and in addition point out that [paragraph 0014] discloses "In a two-way communication VOIP CDMA system, a transmitter and a receiver is present at each end, but for simplification, consider only a single

transmitting and receiving pair for now. Transmitter 104 incorporates a buffer 108 with a variable delay designated D1 in the digital signal path that is controlled in a manner as will be described later. This buffer 108 can be at any suitable location within the digital signal path prior to wireless transmission over a VOIP air interface 112. At the receiver end, a receiver 116 incorporates a second buffer 120 that has a variable associated delay designated D2". The examiner contends this adequately reads on the limitation.

Applicants arguments regarding claim 2, and that the art of record does not disclose the adjusting the coding rate of the vocoder, the examiner disagrees. The examiner would like to restate the above rejection adjusting the coding rate of the communications sent from the source mobile unit to the destination mobile unit as a function, at least in part, of the indication received from the destination mobile unit (which reads on paragraph [0026]), and in addition point out that [claim 2] discloses " means for adjusting the vocoder rate based upon a measure of traffic loading of the wireless network". The examiner contends this adequately reads on the limitation.

The examiner stands by and restates the above rejection.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

S. Smith
December 10, 2005